

## Chapter 86

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\* **Cross References**--Any ordinance prescribing utility rates and fees saved from repeal, § 1.110(11); any ordinance regarding water, sewer, solid waste, and electric rates, rules and regulations and sewer and water main construction saved from repeal, § 1.110(22); administration, ch. 2; buildings and building regulations, ch. 14; businesses, ch. 18; health and sanitation, ch. 38; mobile homes, ch. 46; water supply, sewage disposal and related facilities in mobile home parks, § 46.111; nuisances, ch. 50; planning commission, ch. 62; solid waste, ch. 66; streets, sidewalks and other public places, ch. 70; subdivision regulations, ch. 74; required subdivision improvements, § 74.112 et seq.

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## ARTICLE I. IN GENERAL

### Sec. 86.100. Penalty.

Any person violating any of the provisions of this chapter for which no specific penalty is provided shall upon conviction, be subject to section 1.111.

(Code 1982, § 15.17)

### Sec. 86.101. Protection of wells, septic tanks, similar structures.

(a) All wells, septic tanks and similar structures being used within the village shall be protected by an adequate sound covering of sufficient strength to prevent injury to any human being or animal. All wells, septic tanks and similar structures in the village that are abandoned and have not been used for six months or more shall be filled to grade by the owner of the land upon which situated with properly tamped backfilling with adequate provision for settling so as to remove such abandoned well as a hazard to human and animal life and limb.

(b) The building inspector may at any time order any well in the village to be adequately covered or filled to grade as the facts warrant. Such order shall be in writing and be served upon the owner or any lienholder on the land, if any, in the same manner as provided for excavations in section 14.108(b).

(c) Should the owner fail within 15 days after service of such order to properly cover or fill such well, the building inspector shall cause the same to be done; and the cost shall be a lien on the real estate on which such well is situated and entered upon the next succeeding tax roll as a special tax and shall bear interest at the rate of six percent per annum from the date of the building inspector's report of the cost.

(Code 1982, § 4.156(2))

## ARTICLE II. WATER UTILITY\*

### DIVISION 1. GENERALLY

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\* **Editors Note**--The village, on May 21, 1968, filed an application with the state public service commission for authority under Wis. Stats. § 196.49 and Wis. Admin. Code PSC ch. 184, to operate as a water public utility and construct facilities in the village and under Wis. Stats. § 196.19 to establish rates. Pursuant to due notice, hearing was held on June 24, 1968, on the application and by order dated August 6, 1968, the commission, pursuant to the aforementioned statutes, ordered the establishment of the Weston Water Utility.

**Sec. 86.102. Adoption of state plumbing code.**

The village adopts by reference the state plumbing code, being Wis. Admin. Code ILHR chs. 81--87.

(Ord. of 6-19-1984, § 15.18)

**Sec. 86.103. Supplementary nature of article.**

This article does not supersede the state plumbing code or any other provision of the village but is supplementary to them.

(Ord. of 6-19-1984, § 15.18)

**Sec. 86.104. Discontinuance of service for violation of article.**

The water utility is authorized and directed to discontinue water service to any property wherein any connection in violation of this article exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice and opportunity for hearing under Wis. Stats. ch. 68, except as provided in section 86.118. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this article.

(Ord. of 6-19-1984, § 15.18)

**Sec. 86.105. Name.**

The water utility shall be known as the Weston Water Utility.

(Code 1982, § 15.01(2))

**Sec. 86.106. Management.**

The water utility shall be owned by the village and shall be operated under the direction of the board.

(Code 1982, § 15.01(3))

**Sec. 86.107. Failure to repair leaky or broken pipes.**

If a consumer fails to repair a leaky or broken pipe from the curb to the house within such time as may appear reasonable to the board after notification has been served on the consumer by the board, the water will be shut off and will not be turned on again until the repairs have been completed.

(Code 1982, § 15.04(10))

**Sec. 86.108. Thawing frozen services.**

Frozen services shall be thawed out by and at the expense of the utility, except where the freezing was caused by contributory fault or negligency on the part of the consumer, such as reduction of the grade or undue exposure of the piping in the building or on a consumer's property, or failure to comply with the utility's specifications and requirements as to depth of service, lack of sufficient or proper backfill, etc.

(Code 1982, § 15.04(11))

**Sec. 86.109. Refreezing and rethawing.**

Following the freezing of a service, the utility shall take such steps and issue such instructions as may be necessary to prevent the refreezing of the same service. No charge shall be made for rethawings if the instructions are followed. If it is necessary to allow the water to flow to prevent refreezing, the consumer must make provisions for proper disposal of the wastewater.

(Code 1982, § 15.04(12))

**Sec. 86.110. Charges for water used to prevent refreezing.**

For the period in which the water is allowed to run, the consumer will be billed according to such owner's meter readings, but in no event, to exceed the average amount paid in the corresponding billing periods of the previous two years. A new consumer will be charged the average bill for other consumers of the same class receiving service under comparable conditions.

(Code 1982, § 15.04(13))

**Sec. 86.111. Stop boxes.**

The consumer shall protect the stop box in his terrace and shall keep it free from dirt and other obstructions. The utility shall not be liable for failure to locate a stop box and shut off the water in case of a leak on the consumer's premises. Any curb stops 1 1/4 inch diameter or larger shall be Teflon coated and have the impregnated ball type of valve.

(Code 1982, § 15.04(14))

**Sec. 86.112. Outside hydrants.**

Outside hydrants after the effective date of the ordinance from which this section is derived shall not be installed by consumers unless they are connected to the pipe system of the building used as the residence or business place of the consumer. If the use of such hydrant produces a serious water hammer, the owner shall correct this condition at such owner's expense by effective means such as the connection of an air chamber to form an air cushion or by changing the type of hydrant.

(Code 1982, § 15.04(15))

**Sec. 86.113. Turning on water.**

The water cannot be turned on for a consumer except by a duly authorized employee of the utility. When a plumber has completed a job, he must leave the water turned off. This does not prevent the plumber from testing the work.

(Code 1982, § 15.04(16))

**Sec. 86.114. Service piping.**

In installing new service piping if meters are to be set, the consumer shall, at his own expense, provide the proper connections for the meter. Proper connections shall include the use of gate valves before and after the meter. No piping other than copper ductile iron, or high-density polyethylene meeting the utility's specifications, shall be used on services from the curb stop to the meter. Where it is possible to set meters in the basement, a short nipple shall be inserted at the proper length. The nipple attached to the union and coupling shall be cut to a standard length provided by the plans of the utility, which may later be removed for the insertion of the meter into the supply line. No permit will be given to change from metered to flat rate service.

(Code 1982, § 15.04(17), Ord. Of 8-24-2006)

**Sec. 86.115. Electrical grounding.**

Any electrical grounding to the municipal water system shall be made on the curb side of the water meter and shall be exposed and visible. If the customer's service lateral is of non-metallic material, the electrical system shall be grounded in accordance with Wisconsin Electrical Code, COMM 16, and the National Electrical Code Article 250.

(Code 1982, § 15.04(18), Code Of 8-24-2006)

**Sec. 86.116. Water emergency.**

(a) *Board authority.* The board shall declare a water emergency within the areas of the village serviced by the utility when in its opinion a water shortage exists. A water shortage shall be deemed to exist when the water level in the village's elevated water storage tank cannot be maintained at a constant level due to a low groundwater table, mechanical failures or for any other reason.

(b) *Notice of water emergency; termination.* A water emergency shall not be deemed to be in effect until the board shall pass a resolution declaring the existence of such emergency at a regular or special meeting of the board and upon publication of a notice of such resolution as a class 1 notice as provided by law. Such an emergency shall remain in effect until publication of notice by the board that the emergency no longer exists.

(c) *Restrictions on use of water during water emergency.* Except as otherwise provided, no person shall, during the existence of a water emergency, use any water except water from private sources, for sprinkling of lawns, gardens and other vegetation; nor shall any such person use any such water for the private washing of vehicles. Such uses shall be permitted only on even-numbered days of the month for those premises bearing an even-numbered house number and on the odd-numbered days of the month for those premises bearing an odd-numbered house number.

(Code 1982, § 15.151)

**Sec. 86.117. Cross connections.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Cross connection* means any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the water utility water system and the other water from a private source, water of unknown or questionable safety, or steam, gases or chemicals, whereby there may be a flow from one

system to the other, the direction of flow depending on the pressure differential between the two systems.

(b) *Authority.* Wis. Admin. Code NR ch. 811 and other applicable regulations require protection of the public water system from contaminants due to backflow of contaminants through the water service connection; and because the state departments of natural resources and health and social services require the maintenance of a continuing program of cross connection control that will systematically and effectively prevent the contamination of all potable water systems.

(c) *Control and maintenance of connections.* No person shall establish or permit to be established or maintain or permit to be maintained any cross connection. No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply other than the regular public water supply of the water utility may enter the supply or distribution system of the village unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the water utility and by the department of natural resources in accordance with Wis. Admin. Code NR § 811.09(2).

(d) *Inspections.* It shall be the duty of the water utility to cause inspections to be made of all properties served by the public water system where cross connections with the public water system is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the water utility and as approved by the department of natural resources.

(e) *Inspection of private property served by a connection.* Upon presentation of credentials, the representative of the water utility shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the water utility for cross connections and at least annually for unmetered taps for waste or unnecessary use of water. If entry is refused, such representative shall obtain a special inspection warrant under Wis. Stats. § 66.122. On request, the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property.

(Code 1982, § 15.18(1), (3)--(5))

### **Sec. 86.118. Immediate discontinuance of service.**

If it is determined by the water utility that a cross connection or any emergency endangers public health, safety or welfare and requires immediate action, and a written finding to that effect is filed with the village clerk/treasurer and delivered to the customer's premises, service may immediately be discontinued. The customer shall have an opportunity for hearing under Wis. Stats. ch. 68 within ten days of such emergency discontinuance.

(Code 1982, § 15.03(2), (7))

**Sec. 86.119. Curb stops.**

(a) *Charges.* There shall be assessed and levied against the property and premises to be served thereby the cost per lateral at the rate on file with the clerk of the water utility, for installation of curb stops tapped to water mains of the water utility. Deferred curb stops shall be charged at the current rate in effect at the time they are placed in service.

(b) *Application for service.* Applications shall be made in writing for the installation of curb stops on such form as shall be prescribed by the water utility and must be signed by the plumber making the connection. The connection must be inspected at the point of connection prior to backfilling by a representative of the water utility.

(c) *Utility installation.* The water utility may, as it deems desirable, install such curb stops at such place as may appear to be necessary to serve the present use or future possible or probable use of any premises situated in the village and abutting upon water mains in or upon streets in which such mains are installed.

(d) *Charges to be special assessments.* Such utility charges shall constitute special assessments against the premises so served or to be served or which may be served by such curb stops. It shall be the duty of the water utility to certify a list of such installations to the property owner, and such special assessments shall be entered in the tax roll against the premises so served and may be collected as general taxes are collected. If the owner of the premises makes written application within 60 days after the completion of installation of curb stops, the assessment may be paid in not more than five annual installments, each of which shall be so entered on the tax roll if such application is made; and deferred installments in such case shall bear interest at the rate of six percent per annum. However, in any event, the curb stop charge must be paid within 60 days from the billing date.

(Code 1982, § 15.02)

**Sec. 86.120. Deposit and guarantee rules.**

(a) *For renters.* A deposit may be required of all renters using water service to guarantee the payment of the water bill by the renter.

(b) *Guarantee.* The utility may accept, in lieu of a cash deposit, a contract signed by a guarantor satisfactory to the utility, whereby payment of a specified sum not exceeding the cash deposit requirement is guaranteed. The term of such contract shall be indeterminate, but it shall automatically terminate when the customer gives notice to the utility of discontinuance of service at the location covered by the guarantee agreement or

six months after discontinuance of service, or at the guarantor's request upon 30 days' written notice to the utility.

(c) *Termination of guarantee.* Upon termination of a guarantee contract or whenever the utility deems the guarantee insufficient as to the amount or surety, a cash deposit or a new or additional guarantee may be required upon reasonable written notice to the consumer. The water service of any consumer who fails to comply with these requirements may be discontinued upon five days' written notice.

(d) *Due or unpaid bills for water service.* The guarantor shall receive copies of all final discount notices sent to the consumer whose account the guarantor has guaranteed. Any due and unpaid bill for water service may be put upon the tax roll as provided in Wis. Stats. § 66.069 and shall be a lien upon the real estate to which such water was furnished as provided in such statute.

(Code 1982, § 15.08)

## DIVISION 2. OPERATING RULES

### **Sec. 86.121. Applicability of state rules.**

The "Standard Rules" published by the state public service commission shall be applicable to the operation of the water utility.

(Code 1982, § 15.15)

### **Sec. 86.122. Tampering with system prohibited.**

Any person who shall, without authority of the board, operate any valve connected with the street or supply mains, or open any fire hydrant connected with the distribution system, except for the purpose of extinguishing fire, or who shall wantonly injure or impair the valve or hydrant, shall be in violation of this division and shall upon conviction be subject to section 1.111. Permits for the use of hydrants for filling sprinkler carts apply only to such hydrants as are designated for such use.

(Code 1982, § 15.03(1))

### **Sec. 86.123. Water for construction use.**

Water used for construction work must be covered by a written permit, which can be obtained only from the water utility. In no case will any employe of the utility turn on water for construction work unless the contractor first presents a permit. Upon completion of the construction work, the contractor must return the original permit to the

water utility, together with a statement of the actual amount of construction work performed.

(Code 1982, § 15.03(2))

**Sec. 86.124. Taking water from a consumer's premises.**

Consumers shall not allow contractors, masons or other persons to take water from their premises without first showing a permit from the water utility. Any consumer failing to comply with this provision shall have water service discontinued and be deemed in violation of this division. Upon conviction, such consumer shall be subject to a fine as set forth in section 86.122.

(Code 1982, § 15.03(3))

**Sec. 86.125. Failure of supply.**

Consumers taking water for supplying boilers for generating steam or for other general uses and depending upon the water pressure for supply will do so at their own risk, and the utility shall not be liable for any damages because of the lack of pressure or failure of supply.

(Code 1982, § 15.03(4))

**Sec. 86.126. Vacation of premises.**

When premises are to be vacated, the utility shall be notified in writing at once so that it may remove the meter and shut off the supply at the curb stop. The owner of the premises shall be liable to prosecution for any damage to the property of the water department by reason of failure to notify the utility of vacancy.

(Code 1982, § 15.03(6))

DIVISION 3. SERVICE RULES

**Sec. 86.127. Handling water mains and service pipe in sewer or other trenches.**

Where excavating machines are used in digging sewers, all water mains shall be maintained at the expense of the contractor. Contractors must ascertain for themselves the existence and location of all service pipes. Where they are removed, cut or damaged in the construction of a sewer, the contractor must, at his own expense, cause them to be replaced or repaired at once. He must not shut off the water service pipes from any consumer for a period exceeding six hours. Permission must be first obtained in writing from the water utility before any excavation is made. All of the provisions of section

70.115 shall be fully complied with by any such contractor or other person who shall excavate or cause any excavation for the purposes set forth in this division.

(Code 1982, § 15.04(1))

**Sec. 86.128. Repairs to mains.**

The utility reserves the right to shut off the water in the mains temporarily, to make repairs, alterations or additions to the plant or system. When the circumstances will permit of sufficient delay, the utility will give notification by newspaper publication or otherwise of the discontinuance of the supply. No rebate or damages will be allowed to consumers for such temporary suspension of supply.

(Code 1982, § 15.04(2))

**Sec. 86.129. Tapping mains.**

No persons, unless authorized by the utility, shall be permitted to tap or make any connection with any street main or distribution pipe. This work shall be done in accordance with the rules of the utility.

(Code 1982, § 15.04(3))

**Sec. 86.130. Permit.**

No water shall be taken without proper permit. Parties desiring to introduce water on their premises must make formal application to the water utility office and sign an application card or permit constituting a contract for water supplied and its specific use, which contract embodies this division as part of the contract.

(Code 1982, § 15.04(4))

**Sec. 86.131. Service connections.**

Each applicant for water service shall, at the time of making application for such service, execute and deliver to the utility a contract for such water service, agreeing to put in the service pipe from the curblineline to each piece of water-using property existing at that point and owned by him where such water is desired, at the expense of such applicant, and to commence the payment for such water service when a bill is rendered. For all duplexes constructed after the effective date of the ordinance from which this section is derived, a separate service pipe from the curblineline shall be provided for each living unit in the duplex; and each such living unit shall have a separate water meter and remote

external reader. Multiple-family units larger than duplexes may install separate meters at the discretion of the owner.

(Code 1982, § 15.04(5); Ord. of 12-7-1987, § 1)

**Sec. 86.132. One structure for each connection.**

Any permit given for water service shall require that not more than one dwelling house, apartment building, hotel, business house or factory shall be served by one connection. Any duplex constructed after the effective date of the ordinance from which this section is derived shall be required to have a separate connection extending from the curblineline to each living unit.

(Code 1982, § 15.04(6); Ord. of 12-7-1987, § 1)

**Sec. 86.133. Corrections.**

Whenever service pipes have to be replaced when conditions contrary to the provisions of section 86.132 exist, they shall be corrected. Whenever permanent street improvements are made and conditions contrary to the provisions of section 86.132 exist, they shall be corrected.

(Code 1982, § 15.04(7))

**Sec. 86.134. Laying service.**

Plumbers shall not connect two services to one tap, but each building must have one distinct and separate tap and service pipe laid not less than six feet below the surface after the street is brought to grade. Each service must be provided with a stop cock and metal extension stop box outside of the premises connected with the service. Supply pipes shall not be laid across the connecting adjoining premises, whether owned by the same or different parties. Every service pipe where it enters the cellar shall be furnished with a stop and waste cock so situated below the action of frost that the water can be completely shut off and drained from the pipes when necessary to prevent freezing.

(Code 1982, § 15.04(8))

**Sec. 86.135. Repair to services.**

The service pipe from the main to and including the curb cock at the curb will be maintained and kept in repair at the expense of the utility. However, it is the duty of the consumer to maintain the service pipe from the curb to the point of use, and the utility cannot be called upon to stand liable for the loss of water which has not passed through the meter but has been wasted by leakage of defective pipes and fixtures.

(Code 1982, § 15.04(9))

#### DIVISION 4. METERS

##### **Sec. 86.136. Installation.**

Meters will be furnished and placed by the water utility and are not to be disconnected or interfered with by the consumer. All meters shall be so located that they shall be preserved from obstructions and allow easy access for reading and inspection, such location to be designated by the utility. All piping within the building must be supplied by the consumer. If additional meters are desired by the consumer, he shall pay for all piping in an amount sufficient to cover the cost of maintenance and depreciation as set by the board.

(Code 1982, § 15.05)

##### **Sec. 86.137. Repairs.**

(a) *Utility to repair.* Meters will be repaired by the water utility, and the cost of such repairs caused by ordinary wear and tear will be borne by the utility.

(b) *Damage caused by owner.* Any damage to a meter resulting from the carelessness of the owner of the premises, his agent or tenant, or from the negligence of any one of them to properly secure and protect the meter, including any damage that may result from allowing a water meter to become frozen, to become injured from the presence of hot water or steam in the meter shall be paid for by the consumer or the owner of the premises.

(c) *Interfering with proper metering.* When the utility has reasonable evidence that a consumer is obtaining his supply of water, in whole or in part, by means of devices or methods used to stop or interfere with the proper metering of the utility service being delivered to his equipment, the utility reserves the right to estimate and present immediately a bill for service unmetered as a result of such interference; and such bill shall be payable subject to a 24-hour disconnection of service. When the utility shall have disconnected the consumer for any such reason, the utility will reconnect the consumer upon the following conditions:

- (1) The consumer will be required to deposit with the utility an amount sufficient to guarantee the payment of the consumer's bills for utility service to the utility.

- (2) The consumer will be required to pay the utility for any damages to its equipment of the consumer's premises due to such stoppage or interference with its metering.
- (3) The consumer must further agree to comply with reasonable requirements to protect the utility against further losses.

(Code 1982, § 15.06)

**Sec. 86.138. Complaint meter tests.**

If a consumer demands that a test be made of his meter in addition to the periodic or installation test, he shall pay a test fee set by the village board in the village fee schedule per inch of nominal size or fraction thereof. If the meter is found fast in excess of two percent, the payment for the test will be refunded and the usual adjustment made in the past bills.

(Code 1982, § 15.07)

DIVISION 5. CONNECTIONS, FEES AND CHARGES

**Sec. 86.139. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Roominghouses* means homes and apartments having suites of one, two or more rooms with toilet facilities, but without kitchen for cooking.

*Suites, in houses or apartments where complete housekeeping functions such as cooking are not exercised,* means "roominghouses."

*Unit of service* means any residential or small commercial aggregation of space or area occupied for a distinct purpose, such as a residence, apartment, flat, store or office, which is equipped with one or more fixtures for rendering water service, separate and distinct from other users. Each unit of service shall be regarded as one consumer, with the surcharge for additional consumers on a meter assessed accordingly.

(Code 1982, § 15.11(1), (2))

**Cross References--**Definitions generally, § 1.101.

**Sec. 86.140. Mandatory hookup.**

The owner of each parcel of land adjacent to a water main on which there exists a building usable for human habitation, which parcel is located in a block through which the water system is extended, or where the water system is otherwise available to such parcel, shall connect to the water system within one year from the date of a written connection notice from the water utility. Upon failure to do so, the water utility shall cause the connection to be made; and the property owner shall be responsible for all connection costs. If such costs are not paid within 30 days of written demand for payment, the costs shall be assessed against the property of the owner and collected in the same manner that real estate taxes are collected. However, the owner may, within 30 days after the completion of the connection, file a written request with the water utility for the payment of such costs in ten equal monthly installments, together with interest at a rate to be determined by the utility. The unpaid balance shall constitute a special tax lien against the property pursuant to the requirements of Wis. Stats. § 281.45.

(Ord. of 4-11-1988, § 1)

**State Law References--**Authority to order house connections, Wis. Stats. § 281.45.

**Sec. 86.141. Failure to connect.**

(a) *Standby charge.*

- (1) Each lot or equivalent parcel of land shall pay a charge prescribed in the village fee schedule or public service commission order for water facilities available but not connected. Where more than one lot or equivalent is used as a unit and a customer is connected, the total charge for general water service to such customer shall be not less than the standby charge applicable to the several lots.
- (2) An equivalent parcel of land shall be each full 120 feet where unplotted, except that any isolated parcel of less than 120 feet shall be equivalent to a lot.

(b) *Billing.* Standby service shall be billed annually unless the customer requests quarterly billing. Annual standby charges will be certified to the village clerk/treasurer each year, and the village clerk/treasurer will insert such charges as a tax against such lot or parcel of real estate. Charges under quarterly billing will be subject to the same billing rule as a general service customer.

(c) *Penalty.* Upon failure to connect as provided in subsection (a) of this section, a forfeiture shall be payable in the sum of \$100.00 per month per equivalent meter. The term "equivalent meter" is defined in section 86.151. Each month wherein the owner of property fails to connect to the water system shall constitute a separate offense. The owner shall also be chargeable with the costs of prosecution and, in default of payment of forfeiture and costs of prosecution, shall be imprisoned in the county jail for a period not to exceed 30 days for each offense.

(Ord. of 7-16-1990, § 1)

**Sec. 86.142. Water utility rates.**

(a) *Rates of service.* The rates for water used in the village are the current rates as established by the most recent public service commission ruling, on file with the clerk of the water utility.

(b) *Payment of bills.* Bills for metered water service are rendered quarterly and become due and payable on the first day of the month following the period for which service is rendered. A penalty of five percent will be added to any bill not paid within 15 days from the date of the bill. If the bill is not paid within 20 days, the customer will be given written notice that the bill is delinquent and that, unless payment or satisfactory arrangement for payment is made within the next five days, service will be discontinued without further notice, and a reconnection charge prescribed in the village fee schedule shall be paid before water service is restored.

(Code 1982, § 15.10)

**Sec. 86.143. Consumer's premises with several buildings.**

When a consumer's premises has several buildings, each supplied with service and metered separately, the full service charge will be billed for each meter separately, and the readings not cumulated. If these buildings are all used in the same business and are not connected by the consumer, they can be metered in one place. If the utility, for its own convenience, installs more than one meter, the readings will be cumulated for billing.

(Code 1982, § 15.11(3))

**Sec. 86.144. Public service.**

(a) *Municipal purposes.* Water service supplied to village buildings, schools, etc., shall be metered and regular service rates applied.

(b) *Water used for flushing sewers, similar services.* Water used for flushing sewers, street sprinkling, flooding skating rinks, drinking fountains, filling swimming pools, etc., shall be metered where meters can be set to measure the service. Where it is impossible to measure the service, the department of public works shall estimate the gallons of water used, based on the pressure, size of opening, and period of time water is allowed to flow. The estimated quantity shall be billed at the rate as set by current public service commission ruling, on file with the water utility clerk.

(Code 1982, § 15.12)

**Sec. 86.145. Building and construction water service.**

Metered service rates shall apply to all building and construction water service.

(Code 1982, § 15.13)

**Sec. 86.146. Private fire protection service.**

(a) Private fire protection service shall consist of connections for automatic sprinkler systems, standpipes (where they are connected permanently or continuously to the mains), and private hydrant systems.

(b) Quarterly demand charges for private fire protection service are as outlined by the public service commission, on file with the water utility clerk.

(Code 1982, § 15.14)

**ARTICLE III. WELLS**

**Sec. 86.147. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Community or private water system* means a system for the provision to the public of piped water for human consumption when such system has at least 15 service connections or regularly serves at least 25 year-round residents owned or operated by a city, village, county, town, town sanitary district, utility district or public institution as defined in Wis. Admin. Code NR § 812.07, or a privately owned water utility serving any of the above.

*Noncomplying* means a well or pump installation that does not comply with the provisions of Wis. Admin. Code Ch. NR 812, in effect at the time the well was constructed, a contamination source was installed, the pump was installed or work was done on either the well or pump installation.

*Pump installation* means the pump and related equipment used for withdrawing water from a well, including the discharge piping, the underground connections, pitless adapters, pressure tanks, pits, sampling faucets and well seals or caps.

*Unsafe* means a well or pump installation that produces water that is bacteriologically contaminated or contaminated with substances exceeding the standards of Wis. Admin. Code Ch. NR812 or for which a health advisory has been issued by the department of natural resources.

*Unused* means a well or pump installation that is not in use or does not have a functional pumping system.

*Well* means an excavation or opening into the ground made by digging, boring, drilling, driving or other methods for the purposes of obtaining groundwater for consumption or other use or as provided in Wis. Admin. Code Ch. NR812.07(119).

*Well abandonment* means the filling and sealing of a well according to the provisions of Wis. Admin. Code Ch. NR812.26.

(Ord. of 7-1-1991, § 1(3))

**Cross References**--Definitions generally, § 1.101.

**Sec. 86.148. Penalties.**

(a) *Violations, Injunctions, Abatement, and Removal.* It shall be unlawful to violate any of the provisions of this section. In case of any violation, the Village Board may institute appropriate legal action or proceedings to enjoin a violation of this section, or seek abatement or removal. In addition, those actions commenced by the Village may seek a forfeiture or penalty as outlined in this section.

(b) Any person, firm, or corporation, or agent, employee, or contractor of such, who violates, disobeys, omits, neglects, or refuses to comply with, or who resists enforcement of any provision of this section, shall upon conviction, pay forfeiture not to exceed \$500.00 for each offense, together with the costs of prosecution. Each day that a violation continues to exist shall constitute a separate offense.

(Ord. of 7-1-1991, § 1(7); Ord. of 4-9-2008; Ord. of 4-10-2009)

**Sec. 86.149. Well operation permit.**

(a) The Village may grant a permit to a private well owner to operate a well for a period not to exceed five years providing the conditions of this section are met.

(b) A property owner may request issuance of a well operation permit for a newly constructed drilled or driven-point well, provided the following conditions are met:

- (1) The owner of the proposed private well must provide evidence of the DNR well notification number; and
- (2) Following completion of the new private well construction, the well owner must furnish a copy of the well construction report filed with the DNR, and the owner must comply with all conditions described in (c)(1) through (c)(4) of this section.

(c) An owner may request renewal of a well operation permit by submitting information verifying that the conditions of this section are met. The village shall conduct on-site inspections and water quality tests at the applicant's expense to obtain or verify information necessary for consideration of a permit application or renewal. Permit applications and renewals shall be made on forms provided by the village. The following conditions must be met for issuance or renewal of a well operation permit:

- (1) The well and pump installation meet or are upgraded to meet the requirements of Chapter NR812, Wisconsin Administrative Code;
- (2) The well construction and pump installation have a history bacteriologically safe water as evidenced by one sample as required by Chapter NR811.10(2), Wisconsin Administrative Code; and no exception to this condition may be made for unsafe wells unless the Department of Natural Resources approves, in writing, the continued use of the well.
- (3) There are no cross connections between the well and pump installation and the municipal water system; and
- (4) The proposed use of the well and pump installation is necessary in addition to water provided by the municipal water system.

(Ord. of 7-1-1991, § 1(5); Ord. of 2-18-2002, § 1; Ord. of 4-9-2008; Ord. of 4-10-2009)

**Sec. 86.150. Well abandonment.**

(a) *Purpose.* The purpose of this section is to prevent contamination of groundwater and to protect public health, safety and welfare by assuring that unused, unsafe or noncompliant wells, or wells that may serve as conduits for contamination, or wells that may be illegally cross connected to the municipal water system are properly abandoned.

(b) *Applicability.* This section applies to all wells located on premises served by the municipal water system.

(c) *Abandonment procedures.* The following procedures shall be followed for the abandonment of all wells within the Village:

- (1) All wells abandoned under the jurisdiction of this section shall be abandoned according to the procedures and methods of Chapter NR812, Wisconsin Administrative Code. All debris, pump, piping, unsealed liners and any other obstructions that may interfere with sealing operations shall be removed prior to abandonment.
- (2) The owner of the well, or the owner's agent, shall notify the Village at least 48 hours prior to the commencement of any well abandonment activities. The abandonment of the well shall be observed by the Village.

- (3) An abandonment report form, supplied by the Department of Natural Resources, shall be submitted by the well owner to the Village and the Department of Natural Resources within 30 days of the completion of the well abandonment.

(Ord. of 7-1-1991, § 1(1), (2), (6))

#### **ARTICLE IV. SEWERAGE UTILITY\***

##### **Sec. 86.151. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Equivalent meter* means one unit per meter. One unit is defined as one residential housing unit or 210 gallons per day and which utilizes a meter size of either five-eighths inch or three-fourths inch. The number of equivalent units multiplied by the fee prescribed shall determine the hookup charge for each connection.

(Ord. of 1-18-1988(1), § 1(2))

**Cross References**--Definitions generally, § 1.101.

##### **Sec. 86.152. Hookup charges.**

A sewer hookup charge per the village fee schedule for each equivalent meter shall be paid by the owner of any building for each connection to the sanitary sewer system occurring after

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**Editor's note**—The village presently contributes to the Rib Mountain sewage treatment facilities.

February 1, 1988. These charges shall apply only to new buildings upon which construction was commenced after February 1, 1988, to all new or existing buildings in areas annexed to the village after February 1, 1988.

(Ord. of 1-18-1988(1), § 1(1))

##### **Sec. 86.153. Sewer service charges.**

A sewer service charge is imposed upon each lot, parcel of land, building or premises fronted by a public sewer and/or served by wastewater facilities or otherwise discharging sewage, including industrial wastes, into the public sewerage and wastewater facilities. Such sewer service charge shall be payable in an amount determinable as follows:

(1) *Category A* is defined as normal or domestic strength wastewater having organic concentrations of biochemical oxygen demand (BOD5) no greater than 250 milligrams per liter (mg/l) and suspended solids (SS) no greater than 250 milligrams per liter (mg/l). The sewer service charge for category A wastewater is as follows:

- a. The sewer service charge shall consist of a meter/unit charge plus a volumetric charge. The meter/unit charge shall be determined by either the equivalent water meter table or the number of units served by the meter, whichever is greater. When a meter serves more than one unit, the unit/meter charge shall be based upon the number of units served by the meter. The charge would then be determined by multiplying the number of units times the meter charge for a five-eighths-inch and three-fourths-inch water meter.
- b. The equivalent meter table is based upon one unit per meter. One unit is defined as one residential housing unit or 210 gallons per day.
- c. The meter/unit charge for commercial customers not serving living quarters shall be determined by the equivalent meter table or 210 gallons per day per unit, whichever is greater.

EQUIVALENT METER TABLE

<i>Meter Size (Inches)</i>	<i>Equivalent Units</i>
5/8 and 3/4	1.0
1	2.5
1 1/4 and 1 1/2	5
2	8
3	15
4	25
6	50

METER/UNIT CHARGE TABLE

<i>Meter Size (Inches)</i>	<i>Meter/Unit Charge</i>
5/8 and 3/4	As set from time to time by the board
1	As set from time to time by the board
1 1/4 and 1 1/2	As set from time to time by the board
2	As set from time to time by the board
3	As set from time to time by the board
4	As set from time to time by the board
6	As set from time to time by the board

- d. In addition, a volumetric charge is assessed. The volumetric charge is based on a waste strength of 250 mg/l BOD5 and 250 mg/l SS.

e. The sewer service charge shall be determined as follows:

$$S.C. = U.C. + C.V.V.$$

S.C.	=	Total sewer service charge
U.C.	=	Meter unit charge
C.V.	=	Volume unit price - As set from time to time by the board, per 1,000 gallons
V.	=	Total volume of water used during billing period in 1,000 gallons

(2) *Category B* is defined as wastewater having organic concentrations of biochemical oxygen demand (BOD<sup>5</sup>) greater than 250 milligrams per liter (mg/l) and/or suspended solids (SS) greater than 250 milligrams per liter (mg/l). The minimum category B charge will be based on a concentration of 250 mg/l BOD<sup>5</sup> and 250 mg/l SS. The equation for the monthly category B charge is as follows:

SSC	-	Total sewer service charge
SSC	-	Category A charge (fixed plus volumetric) plus high-strength surcharge
High-strength surcharge	-	$(CB \times BOD^5) + (CS + SS) + AC$
CB	-	BOD <sup>5</sup> unit price - Price per 1,000 pounds shall be determined annually by the RMMSD
BOD5	-	1,000 pounds of BOD5 discharged during billing period in excess of domestic strength wastewater
SS	-	1,000 pounds of SS discharged during billing period in excess of domestic strength wastewater
AC	-	Cumulative analytical charges for analyzing the BOD <sup>5</sup> and SS samples collected over the billing period

(Ord. of 6-6-1988, § 3)

**Sec. 86.155. Permanently installed in-ground sprinkler systems.**

(a) *Permit required.* All permanently installed in-ground sprinkler / irrigation systems require a Village of Weston in-ground sprinkler system permit & inspection.

(b) *Permit fees.* The application for in-ground sprinkler system permit must be accompanied by the fees as defined in the Village Fee Schedule

(c) *Right of way.* The Village of Weston or any other party authorized to work in village rights of way are not responsible for damage to sprinkler pipes or sprinkler heads, installed in village right of way or within 18” of any village right of way. Property lines must be established by applicant before the installation of any in-ground sprinkler system. It is the applicant’s responsibility to have all underground utilities located prior to the installation of the in-ground sprinkler system.

(d) *Connection.* All sprinkler systems connected to the villages water distribution system must comply with Sec. 86.117 of this ordinance and Wis. Dept. of Commerce COMM. 82.41 cross connection control.

(e) *Site plan.* The applicant must provide a drawing of the site & proposed sprinkler system to the village at the time of permit application. Sprinkler systems should not spray on or across public sidewalks, or on to any paved surfaces.

(f) *Watering ban.* The Village of Weston reserves the right to order any sprinkling / irrigation system shut off in the event of a water emergency or shortage.

(g) *Inspection required.* The permit applicant shall notify the building inspector when installation is complete and ready for final inspection.

(h) *Violations.* Any person who shall violate any of the provisions of this section shall upon conviction thereof, be subject to the forfeitures and penalties provided under sec. 1.111 of the Village of Weston Ordinances.

(Ord. 4-24-2009)

## **ARTICLE V STORMWATER UTILITY**

### **DIVISION 1. STORMWATER UTILITY**

#### **Section 86.200. Creation.**

There is hereby established a stormwater utility in the Village of Weston. The operation of the stormwater utility shall be under the supervision of the Director of Public Works.

#### **Section 86.201. Authority.**

The Village, acting through the stormwater utility, may without limitation due to enumeration, acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such facilities, operations and activities, as are deemed by the Village to be proper and reasonably necessary for a

system of storm and surface water management. These facilities may include, without limitation due to enumeration, surface and underground drainage facilities, sewers, watercourses, retaining walls, ponds, streets, roads, ditches and such other facilities as will support a stormwater management system.

### **Section 86.202. Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the content clearly indicates a different meaning:

*Equivalent Runoff Unit* (ERU) means one unit per 3,338 sq. ft. One unit is defined as one single family residential housing unit with a statistical average impervious area equal to 3,338 square feet. The number of ERU's for non-single family residential units shall be determined by the Director of Public Works or the designee.

Ord. of 1-18-1988(1), §1-101.1

### **Section 86.203. Rates and charges.**

(a) The basis for computation of the charge for stormwater services to all lots and parcels of land within the Village is established under this section. The amount of charge to be imposed, the establishment of formulas for the calculation of charges, the creation of customer classifications for the imposition of charges, and changes in such charges, formulas and customer classifications may be made by further resolution of the Village Board. All charges established pursuant to this Section shall be fair and reasonable. A schedule of current charges shall be maintained and on file in the office of the Village Clerk.

(b) Charges shall be imposed to recover all or a portion of the costs of the stormwater utility. Such charges, which shall be established pursuant to further resolution of the Village of Weston Village Board, may include the following components:

1. Base charge. A base charge may be imposed on all property in the Village. The base charge is established in recognition of the fact that all properties in the Village receive services from the stormwater management activities of the Village and that all property contributes to some degree to the stormwater discharge that must be managed by the Village. The base charge shall be assessed to collect the administrative costs of the stormwater utility and may include capital, operating and maintenance costs of the stormwater utility, which are not recovered by other means. The base charge may be based on the size of a lot or parcel of land.
2. Equivalent runoff unit charge (ERU). An equivalent runoff unit charge may be imposed on all property that has an impervious area. The ERU charge shall be assessed based upon the impervious area as reasonably determined by the

- Village for a typical residential unit of property. Other units of property will be charged multiples of the ERU based on the impervious area of the property.
3. Special charge (SC). The special charge which may be imposed on property that is in an area specially benefited by a particular stormwater management facility. This charge will be developed to reflect the benefits in a particular area that may not be appropriate to allocate to property throughout the Village, and will be calculated on an ERU basis.

(c) The property owner shall be responsible for completing the stormwater utility service application form any time a building permit is issued, exclusive of those issued to existing single family residences, or when a site plan review is conducted. The form shall be provided by the Building Inspector/Zoning Administrator with each application for a building permit or application for site plan review. Failure to submit a completed stormwater utility service application form or providing false information on said form, shall result in denial of both the building permit and stormwater utility service applications and imposition of the penalty as provided in this Section. In addition to any other penalties, the owner shall also be liable for stormwater charges, under this Section, for the improvement from the date construction of the improvement began.

(d) The Village Board may establish rates and classifications by further resolution as will be likely to provide a reasonable and fair distribution of the costs of the stormwater utility. In the event the owner and nonowner users of a particular property are not the same, the liability for the charges attributable to that property shall be joint and several.

(1.) Adjustments for Nonresidential Property ERU measurement.

Requests for adjustments of the ERUs allocated to a parcel of property shall be limited to the non-residential customer class. All such requests shall be submitted to the Director of Public Works, who shall have the authority to develop and administer the procedures and standards for the adjustment of ERUs as established in this Section. Requests for adjustment to the user fees shall be governed by this subsection. Any nonresidential customer may, subject to the limitations set forth in this subparagraph (a), submit an adjustment request seeking an adjustment of the ERUs allocated to a parcel of property at any time. Requests shall be in writing and set forth in detail the grounds upon which relief is sought. The nonresidential customer requesting the adjustments may be required, at his, her or its own expense, to provide supplemental information to the Director of Public Works, including but not limited to survey data approved by a registered land surveyor (R.P.L.S.) and engineering reports approved by a professional engineer (P.E.) Failure to provide such information within the time limits established by the Director, as may be reasonably extended, may result in denial of the adjustments request.

- (i) Once a completed adjustments request and all required information is fully submitted, the Director shall have thirty (30) calendar days within which to render a written decision. Concurrent payment of any charges

based on the ERUs allocated to the property is not required as a condition precedent to this request for review. In considering an adjustment request, the Director shall consider whether the calculation of the ERUs for the property is correct.

- (ii) The Director's decision shall be mailed to the address provided on the adjustments request and service shall be complete upon mailing.
- (iii) Appeals from the Director's decisions concerning ERUs adjustment requests shall be governed by subsection (h) below, except that no concurrent payment of any fees is required. All appeals must be in writing and shall specify the grounds for challenging the Director's decision. The appeal must specifically address the Director's conclusions and shall not merely repeat the bases for the initial adjustments request. All appeals shall be submitted within thirty (30) calendar days after the date of mailing the Director's decision. Failure to timely and properly appeal shall deprive the Village Administrator of jurisdiction to hear the appeal.

(2) Adjustments for special site conditions

The Village shall establish a written credit policy to account for properties with unique stormwater characteristics. The policy will allow for an adjustment to the stormwater utility fee based on criteria defined in the policy. The written policy will be available through the Department of Public Works prior to the initial billing.

(e) The charges established will be billed to the utility customer at the same time and in the same manner as the sanitary sewer or water bill. Unless otherwise provided elsewhere, such charges shall not be payable in installments. Bills for stormwater utility charges shall be mailed to the recipient designated by the owner of the property to which the bill relates, provided that such mailing shall not relieve the owner of any property from liability for the charges in the event payment is not made. The owner of any property which is occupied by tenants shall have the right to examine the appropriate records of the Village to determine whether such rates and charges have been paid by such tenants, provided that such examination shall be made at the office at which the records are kept during normal business hours.

(f) A late payment charge as established by further resolution of the Village Board will be added to bills not paid within 20 days of issuance.

(g) All stormwater service charges shall be taxed and collected, and shall be a lien upon the property served in the same manner as water service charges are taxed and collected under the provisions of Sec. 66.0809, Wis. Stats.

(h) The Village of Weston elects not to be subject to the administrative review procedure provisions contained within Chapter 68 of the Wisconsin Statutes, and establishes the following as its municipal review procedure: As a condition precedent to challenging any stormwater utility charge, the charge must be timely paid in full

under protest to the Village. An appeal shall be to the Village Public Works Committee and can be undertaken only by filing a written appeal with the Village Clerk concurrent with the date of payment. The written appeal shall specify all grounds for challenge to the amount of the charge and shall state the amount of charge that the appellant considers to be appropriate. Failure to timely and properly appeal shall deprive the Village Public Works Committee of jurisdiction to hear the appeal.

- (1.) In considering an appeal, the Village Public Works Committee shall determine whether the stormwater utility charge is fair and reasonable and, in the event the appeal is granted, whether or not a refund is due the appellant and the amount of the refund. The Village Public Works Committee shall conduct a formal hearing at such time and place as designated in a hearing notice to the appellant, providing a minimum of five (5) business days notice to the appellant. The decision shall be based upon the evidence presented. The Director of Public Works shall notify the appellant in writing of the determination by first class mail addressed to the individual and at the address listed within the appeal. Service is conclusive upon mailing.

(i) An aggrieved party may appeal the decision of the Village Public Works Committee to the Village Board by filing a written appeal with the Village Clerk no later than thirty (30) calendar days after the date of mailing the decision of the Public Works Committee. The written appeal shall specify all grounds for challenge to the Village Public Works Committee decision and shall again state the amount of charge that the appellant considers to be appropriate. The appeal must specifically address the Village Public Works Committee's conclusions and shall not merely repeat the bases for the initial appeal. Failure to timely and properly appeal shall deprive the Board of jurisdiction to hear the appeal.

In considering an appeal, the Village Board shall determine whether the stormwater utility charge is fair and reasonable and, in the event the appeal is granted, whether or not a refund is due the appellant and the amount of the refund. The Village Board shall consider the appeal in the same manner as a new resolution, pursuant to its rules for procedure in existence at the time of consideration. The Village Clerk shall provide written notice no later than five (5) business days to the address listed within the appeal of the time and place of the Board's consideration of the appeal. The Board shall base its decision upon the information presented at its meeting. The Village Clerk shall notify the appellant in writing of the Board's determination by first class mail addressed to the individual and at the address listed within the appeal. Service is conclusive upon mailing.

(j) If the result of any appeal is that a refund is due the appellant, the refund will be applied as a credit on the appellant's next stormwater bill.

**Section 86.204. Alternative method to collect stormwater charges.**

In addition to any other method for collection of the charges established under this Section, or subsequent resolution, may be, and are hereby authorized to be levied and imposed on property as a special charge pursuant to Sec. 66.0627, Wis. Stats. The mailing of the bill for stormwater utility charges to a property owner shall serve as notice to the property owner that failure to pay the charges when due may result in the charges being imposed pursuant to the authority of Sec. 66.0627, Wis. Stats. The procedures contained in Sec. 66.0627, Wis. Stats., shall govern such notice and further collection procedures.

**Section 86.205. Budget excess revenues.**

The stormwater utility finances shall be accounted for in a separate Stormwater Utility Fund by the Village. The Finance Director or designee, shall prepare an annual budget, which is to include all operation and maintenance costs, debt service and other costs related to the operation of the stormwater utility. The budget is subject to approval by the Village Board. The costs shall be spread over the rate classifications as determined by the Board. Any excess of revenues over expenditures in a year will be retained by the Fund for subsequent years' needs.

**Section 86.206. Penalty.**

A person violating any provision of this Section shall, upon conviction, pay a forfeiture not to exceed \$75.00 for each offense, in addition to the costs of prosecution which are allowed by law. Each day during which a violation exists shall constitute a separate offense.

(Ord. of 03/15/2004, §86.0821)

**Sections 86.207 – 210 Reserved**

**DIVISION 2. POST-CONSTRUCTION STORMWATER MANAGEMENT**

**Section 86.300. Creation.**

The intent of this ordinance is to reduce the amount of post-construction storm water and associated pollutants reaching waters of the state from development and re-development activities within the Village of Weston. The Village Board of the Village of Weston does hereby ordain that Section 86.300 of the ordinance of the Village of Weston is created to and adheres to the following subsections.

**Section 86.301. Authority.**

- (1) This ordinance is adopted by the Village Board under the authority granted by s. 61.354, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s. 61.35, Wis. Stats., that relate to storm water management regulations. Except as otherwise specified in s. 61.354, Wis. Stats., s. 61.35, Wis. Stats., applies to this ordinance and to any amendments to this

- ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the Village.
  - (3) The Village of Weston Board hereby designates the Director of Public Works, or his designee, to administer and enforce the provisions of this ordinance.
  - (4) The requirements of this ordinance do not pre-exempt more stringent storm water management requirements that may be imposed by any of the following:
    - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.
    - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

### **Section 86.302. Purpose and Intent.**

- (1) **PURPOSE.** The general purpose of this ordinance is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:
  - (a) Further the maintenance of safe and healthful conditions.
  - (b) Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
  - (c) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.
- (2) **INTENT.** It is the intent of the Village of Weston Board that this ordinance regulates post-construction storm water discharges to waters of the state. This ordinance may be applied on a site-by-site basis. The Village of Weston Board recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under s. 281.16, Wis. Stats., for regional storm water management measures and have been approved by the Village Board, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

### **Section 86.303. Applicability and Jurisdiction.**

- (1) **APPLICABILITY.**

(a) Where not otherwise limited by law, this ordinance applies after final stabilization to a site of land disturbing construction activity meeting any of the criteria in this paragraph, unless the site is otherwise exempt under paragraph (b).

1. A post–development construction site that had one or more acres of land disturbing construction activity after the effective date of this ordinance.

(b) A site that meets any of the criteria in this paragraph is exempt from the requirements of this ordinance.

1. A redevelopment post–construction site with no increase in exposed parking lots or roads.

2. A post–construction site with less than 10% connected imperviousness based on complete development of the post–construction site, provided the cumulative area of all parking lots and rooftops is less than one acre.

3. Non-point discharges from agricultural facilities and practices.

4. Non-point discharges from silvi-culture activities.

5. Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

6. Underground utility construction such as water, sewer and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.

(c) Notwithstanding the applicability requirements in paragraph (a), this ordinance applies to post– construction sites of any size that, in the opinion of the Director of Public Works, or the designee, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(2) JURISDICTION.

This ordinance applies to post construction sites within the boundaries and jurisdiction of the Village of Weston and to all lands within the extraterritorial plat approval jurisdiction of the Village of Weston.

(3) EXCLUSIONS.

This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.

**Section 86.304. Definitions.**

(1) “Administering authority” means a governmental employee, or a regional planning commission empowered under s. 61.354; Wis. Stats., that is designated by the Village of Weston Board to administer this ordinance.

- (2) "Agricultural facilities and practices" has the meaning given in s. 281.16, Wis. Stats.
- (3) "Average annual rainfall" means a calendar year of precipitation, excluding snow, which is considered typical.
- (4) "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.
- (5) "Business day" means a day the office of the Director of Public Works, or the designee, is routinely and customarily open for business.
- (6) "Cease and desist order" means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.
- (7) "Combined sewer system" means a system for conveying both sanitary sewage and storm water runoff.
- (8) "Connected imperviousness" means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.
- (9) "Design storm" means a hypothetical discrete rain storm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.
- (10) "Development" means residential, commercial, industrial or institutional land uses and associated roads.
- (11) "Division of land" means the creation from one parcel of 2 or more parcels or building sites of 1 or fewer acres each in area where such creation occurs at one time or through the successive partition within a 5 year period.
- (12) "Effective infiltration area" means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
- (13) "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (14) "Exceptional resource waters" means waters listed in s. NR 102.11, Wis. Adm. Code.
- (15) "Extraterritorial" means the unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.
- (16) "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70% of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.
- (17) "Financial guarantee" means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Director of Public Works, or the designee, by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.
- (18) "Governing body" means town board of supervisors, county board of supervisors, city council, village board of trustees or village board.
- (19) "Impervious surface" means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are *examples* of areas that typically are impervious.
- (20) "In-fill area" means an undeveloped area of land located within existing

development.

(21) “Infiltration” means the entry of precipitation or runoff into or through the soil.

(22) “Infiltration system” means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

(23) “Karst feature” means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

(24) “Land disturbing construction activity” means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

(25) “Maintenance agreement” means a legal document that provides for long-term maintenance of storm water management practices.

(26) “MEP” or “maximum extent practicable” means a level of implementing best management practices in order to achieve a performance standard specified in this ordinance which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

(27) “New development” means development resulting from the conversion of previously undeveloped land or agricultural land uses.

(28) “Off-site” means located outside the property boundary described in the permit application.

(29) “On-site” means located within the property boundary described in the permit application.

(30) “Ordinary high-water mark” has the meaning given in s. NR 115.03(6), Wis. Adm. Code.

(31) “Outstanding resource waters” means waters listed in s. NR 102.10, Wis. Adm. Code.

(32) “Percent fines” means the percentage of a given sample of soil, which passes through a # 200 sieve.

(33) “Performance standard” means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

(34) “Permit” means a written authorization made by the Director of Public Works, or the designee, to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

(35) “Permit administration fee” means a sum of money paid to the Director of Public Works, or the designee, by the permit applicant for the purpose of recouping the expenses

incurred by the authority in administering the permit.

(36) “Pervious surface” means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

(37) “Pollutant” has the meaning given in s.283.01(13), Wis. Stats.

(38) “Pollution” has the meaning given in s.281.01(10), Wis. Stats.

(39) “Post–construction site” means a construction site following the completion of land disturbing construction activity and final site stabilization.

(40) “Pre–development condition” means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

(41) “Preventive action limit” has the meaning given in s. NR 140.05(17), Wis. Adm. Code.

(42) “Redevelopment ” means areas where development is replacing older development.

(43) “Responsible party” means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post–construction storm water BMP(s).

(44) “Runoff” means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

(45) “Separate storm sewer” means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

- (a) Is designed or used for collecting water or conveying runoff.
- (b) Is not part of a combined sewer system.
- (c) Is not draining to a storm water treatment device or system.
- (d) Discharges directly or indirectly to waters of the state.

(46) “Site” means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.

(47) “Stop work order” means an order issued by the Director of Public Works, or the designee, which requires that all construction activity on the site be stopped.

(48) “Storm water management plan” means a comprehensive plan designed to reduce the discharge of pollutants from storm water after the site has undergone final stabilization following completion of the construction activity.

(49) “Storm water management system plan - SWMP” is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

(50) “Technical standard” means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

(51) “Top of the channel” means an edge, or point on the landscape, landward from the ordinary

high– water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high–watermark, the top of the channel is the ordinary high–watermark.

(52) “TR–55” means the United States Department of Agriculture, Natural Resources

Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

(53) "Type II distribution" means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973". The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.

(54) "Waters of the state" has the meaning given in s. 281.01 (18), Wis. Stats.

### **Section 86.305. Technical Standards**

The following methods shall be used in designing the water quality, peak flow shaving and infiltration components of storm water practices needed to meet the water quality standards of this ordinance:

- (1) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- (2) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the Director of Public Works, or the designee.
- (3) In this ordinance, the following year(s) and location(s) have been selected as average annual rainfall(s): Green Bay, 1969 (Mar. 29–Nov. 25).

### **Section 86.306. Performance Standards.**

- (1) RESPONSIBLE PARTY. The responsible party shall implement a post–construction storm water management plan that incorporates the requirements of this section.
- (2) PLAN. A written storm water management plan in accordance with 86.215 shall be developed and implemented for each post–construction site.
- (3) REQUIREMENTS. The plan required under sub. (2) shall include the following:
  - (a) TOTAL SUSPENDED SOLIDS. BMP(s) shall be designed, installed and maintained to control total suspended solids carried in runoff from the post–construction site as follows:
    1. For new development, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subsection.
    2. For redevelopment, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subsection.
    3. For in–fill development under 5 acres that occurs within 10 years after October 1, 2002, by design, reduce to the maximum extent practicable, the

total suspended solids load by 40%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subsection.

4. For in-fill development that occurs 10 or more years after October 1, 2002, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subsection.

5. Notwithstanding subs. 1. to 4., if the design cannot achieve the applicable total suspended solids reduction specified, the storm water management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

(b) PEAK DISCHARGE.

1. By design, BMP(s) shall be employed to maintain or reduce the peak runoff discharge rates, to the maximum extent practicable, as compared to pre-development conditionally the 2-year, 10-year, and 100-year 24-hour design storm applicable to the post-construction site. Pre-development conditions shall assume “good hydrologic conditions” for appropriate land covers as identified in TR-55 or an equivalent methodology. The meaning of “hydrologic soil group” and “runoff curve number” are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the runoff curve numbers in Table 1 shall be used.

Table 1 – Maximum Pre-Development Runoff Curve Numbers for Cropland Areas				
Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	56	70	79	83

2. This subsection of the ordinance does not apply to any of the following:
  - a. A post-construction site where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving water by more than 0.01 of a foot for the 2-year, 24-hour storm event.
  - b. A redevelopment post-construction site.
  - c. An in-fill development area less than 5 acres.

3. The responsible party will demonstrate that the storm conveyance system must contain the 2-year and 10-year peak flow rates. Additionally, the responsible party must demonstrate the safe conveyance of the 100-year peak flow rate.

(c) INFILTRATION. BMP(s) shall be designed, installed, and maintained to

infiltrate runoff to the maximum extent practicable in accordance with the following, except as provided in subs. 5. through 8.

1. For residential developments one of the following shall be met:
  - a. Infiltrate sufficient runoff volume so that the post– development infiltration volume shall be at least 90% of the pre–development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
  - b. Infiltrate 25% of the post–development runoff from the 2 year –24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR–55. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
2. For non–residential development, including commercial, industrial and institutional development, one of the following shall be met:
  - a. Infiltrate sufficient runoff volume so that the post– development infiltration volume shall be at least 60% of the pre–development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
  - b. Infiltrate 10% of the runoff from the 2-year – 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR–55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
3. Pre–development condition shall be the same as in par. (b).
4. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with sub. 8. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
5. Exclusions. The runoff from the following areas are prohibited from meeting the requirements of this paragraph:
  - a. Areas associated with tier 1 industrial facilities identified in s. NR

- 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.
- b. Storage and loading areas of tier 2 industrial facilities identified in s. NR 216.21(2)(b), Wis. Adm. Code.
  - c. Fueling and vehicle maintenance areas.
  - d. Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.
  - e. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this sub. 5.e. does not prohibit infiltration of roof runoff.
  - f. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
  - g. Areas within 400 feet of a community water system well as specified in s. NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in s. NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
  - h. Areas where contaminants of concern, as defined in s. NR 720.03(2), Wis. Adm. Code are present in the soil through which infiltration will occur.
  - i. Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a 3-foot soil layer with 20% fines or greater; or at least a 5-foot soil layer with 10 percent fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This sub. 5.i. does not prohibit infiltration of roof runoff.

6. Exemptions. The following are not required to meet the requirements of this paragraph:

- a. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.
- b. Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
- c. Redevelopment post-construction sites.
- d. In-fill development areas less than 5 acres.
- e. Infiltration areas during periods when the soil on the site is frozen.
- f. Roads in commercial, industrial and institutional land uses, and arterial residential roads.

7. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the

infiltration volume required by this paragraph.

8.

- a. Infiltration systems designed in accordance with this paragraph shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140, Wis. Adm. Code. However, if site-specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
- b. Notwithstanding sub. par. a., the discharge from BMP(s) shall remain below the enforcement standard at the point of standards application.

(d) PROTECTIVE AREAS.

1. "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this paragraph, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

- a. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in s. NR 103.04, 75 feet.
- b. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.
- c. For lakes, 50 feet.
- d. For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with s. NR 103.08(1m). This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.
- e. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.
- f. In sub. 1.a., d. and e., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff

susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03.

- g. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

2. This paragraph applies to post-construction sites located within a protective area, except those areas exempted pursuant to sub. 4.

3. The following requirements shall be met:

- a. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The storm water management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
- b. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.
- c. Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.

4. This paragraph does not apply to:

- a. Redevelopment post-construction sites.
- b. In-fill development areas less than 5 acres.
- c. Structures that cross or access surface waters such as boat landings, bridges and culverts.
- d. Structures constructed in accordance with s.59.692(1v), Wis. Stats.
- e. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.

(e) FUELING AND VEHICLE MAINTENANCE AREAS. Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMP(s) designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.

(f) SWALE TREATMENT FOR TRANSPORTATION FACILITIES.

1. Applicability. Except as provided in sub. 2., transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:

- a. Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.
- b. Carry runoff through a swale for 200 feet or more in length that is designed with a flow velocity no greater than 1.5 feet per second for the peak flow generated using either a 2-year, 24-hour design storm or a 2-year storm with a duration equal to the time of concentration as appropriate. If a swale of 200 feet in length cannot be designed with a flow velocity of 1.5 feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable.

2. Exemptions. The Director of Public Works, or the designee, may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2500 and where the initial surface water of the state that the runoff directly enters is any of the following:

- a. An outstanding resource water.
- b. An exceptional resource water.
- c. Waters listed in s. 303(d) of the federal clean water act that are identified as impaired in whole or in part, due to nonpoint source impacts.
- d. Waters where targeted performance standards are developed under s. NR 151.004, Wis. Adm. Code, to meet water quality standards.

(4) **GENERAL CONSIDERATIONS FOR ON-SITE AND OFF-SITE STORM WATER MANAGEMENT MEASURES.** The following considerations shall be observed in managing runoff:

(a) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.

(b) Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

(5) **LOCATION AND REGIONAL TREATMENT OPTION.**

(a) The BMP(s) may be located on-site or off-site as part of a regional storm water device, practice or system.

(b) Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this ordinance. Post-construction BMP(s) may be located in non-navigable surface waters.

(c) Except as allowed under par. (d), post-construction runoff from new development shall meet the post-construction performance standards prior to entering a navigable surface water.

(d) Post–construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this ordinance if:

1. The BMP was constructed prior to the effective date of this ordinance and the BMP either received a permit issued under ch. 30, Stats., or the BMP did not require a ch. 30, Wis. Stats., permit; and
2. The BMP is designed to provide runoff treatment from future upland development.

(e) Runoff from existing development, redevelopment and in–fill areas shall meet the post–construction performance standards in accordance with this paragraph.

1. To the maximum extent practicable, BMP(s) shall be located to treat runoff prior to discharge to navigable surface waters.
2. Post–construction BMP(s) for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as ch. NR 103, Wis. Adm. Code and ch. 30, Wis. Stats.

(f) The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMP(s) is subject to this chapter.

(g) The Director of Public Works, or the designee, may approve off– site management measures provided that all of the following conditions are met:

1. The Director of Public Works, or the designee, determines that the post–construction runoff is covered by a storm water management system plan that is approved by the Village of Weston and that contains management requirements consistent with the purpose and intent of this ordinance.
2. The off–site facility meets all of the following conditions:
  - a. The facility is in place.
  - b. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on–site practices meeting the performance standards of this ordinance.
  - c. The facility has a legally obligated entity responsible for its long–term operation and maintenance.

(h) Where a regional treatment option exists such that the Director of Public Works, or the designee, exempts the applicant from all or part of the minimum on–site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the Director of Public Works, or the designee. In determining the fee for post–construction runoff, the Director of Public Works, or the designee, shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the

regional treatment option.

(6) ALTERNATE REQUIREMENTS. The Director of Public Works, or the designee, may establish storm water management requirements more stringent than those set forth in this section if the Director of Public Works, or the designee, determines that an added level of protection is needed to protect sensitive resources.

### **Section 86.307. Permitting Requirements, Procedures and Fees.**

(1) PERMIT REQUIRED. No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the Director of Public Works, or the designee, prior to commencing the proposed activity.

(2) PERMIT APPLICATION AND FEES. Unless specifically excluded by this ordinance, any responsible party desiring a permit shall submit to the Director of Public Works, or the designee, a permit application made on a form provided by the Director of Public Works, or the designee, for that purpose.

(a) Unless otherwise excepted by this ordinance, a permit application must be accompanied by a storm water management plan, a maintenance agreement and a non-refundable permit administration fee.

(b) The storm water management plan shall be prepared to meet the requirements of 86.213 and 86.215, the maintenance agreement shall be prepared to meet the requirements of 86.216, the financial guarantee shall meet the requirements of 86.217, and fees shall be those established by the Village of Weston Board as set forth in 86.218.

(3) REVIEW AND APPROVAL OF PERMIT APPLICATION. The Director of Public Works, or the designee, shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:

(a) Within 30 business days of the receipt of a complete permit application, including all items as required by sub. (2), the Director of Public Works, or the designee, shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance.

(b) If the storm water permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the Director of Public Works, or the designee, shall issue the permit.

(c) If the storm water permit application, plan or maintenance agreement is disapproved, the Director of Public Works, or the designee, shall detail in writing the reasons for disapproval.

(d) The Director of Public Works, or the designee, may request additional information from the applicant. If additional information is submitted, the Director of Public Works, or the designee, shall have 15 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

(e) Failure by the Director of Public Works, or the designee, to inform the permit applicant of a decision within 15 business days of a required submittal shall be

deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(4) PERMIT REQUIREMENTS. All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The Director of Public Works, or the designee, may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Director of Public Works, or the designee, to suspend or revoke this permit may be appealed in accordance with 86.220.

a) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.

(b) The responsible party shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and this permit.

(c) The responsible party shall notify the Director of Public Works, or the designee, at least 15 business days before commencing any work in conjunction with the storm water management plan, and within 5 business days upon completion of the storm water management practices. If required as a special condition under sub. (5), the responsible party shall make additional notification according to a schedule set forth by the Director of Public Works, or the designee, so that practice installations can be inspected during construction.

(d) Practice installations required as part of this ordinance shall be certified "as-built" by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the Director of Public Works, or the designee, or its designee, to determine if they are in accordance with the approved storm water management plan and ordinance. The Director of Public Works, or the designee, or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.

(e) The responsible party shall notify the Director of Public Works, or the designee, of any significant modifications it intends to make to an approved storm water management plan. The Director of Public Works, or the designee, may require that the proposed modifications be submitted to it for approval prior to incorporation into the storm water management plan and execution by the responsible party.

(f) The responsible party shall maintain all stormwater management practices in accordance with the storm water management plan until the practices either become the responsibility of the Village of Weston, or are transferred to subsequent private owners as specified in the approved maintenance agreement.

(g) The responsible party authorizes the Director of Public Works, or the designee, to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under subch. VII of ch. 66, Wis. Stats., or to charging such

costs against the financial guarantee posted under 86.217.

(h) If so directed by the Director of Public Works, or the designee, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.

(i) The responsible party shall permit property access to the Director of Public Works, or the designee, or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.

(j) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the Director of Public Works, or the designee, may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.

(k) The responsible party is subject to the enforcement actions and penalties detailed in 86.219, if the responsible party fails to comply with the terms of this permit.

(5) PERMIT CONDITIONS. Permits issued under this subsection may include conditions established by the Director of Public Works, or the designee, in addition to the requirements needed to meet the performance standards in 86.213 or a financial guarantee as provided for in 86.217.

(6) PERMIT DURATION. Permits issued under this section shall be valid from the date of issuance through the date the Director of Public Works, or the designee, notifies the responsible party that all storm water management practices have passed the final inspection required under sub. (4)(d).

### **Section 86.308. Storm Water Management Plan (SWMP).**

(1) PLAN REQUIREMENTS. The storm water management plan required under 86.214 (2) shall contain at a minimum the following information:

(a) Name, address, telephone number, fax number, and email address for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.

(b) A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.

(c) Pre-development site conditions, including:

1. One or more site maps at a scale of not less than 1-inch equals 20 feet and not greater than 1-inch equals 60 feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed 10 feet (although may require greater depending on gradient and location); topography and

drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to s. NR 811.16, Wis. Adm. Code.

2. Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).

(d) Post-development site conditions, including:

1. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.

2. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.

3. One or more site maps at a scale of not less than 1 inch equals 20 feet and not greater than 1-inch equals 60 feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed 1 inch equals 20 feet and not greater than 1-inch equals 60 feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.

4. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).

5. Results of investigations of soils and groundwater required for the placement and design of storm water management measures. Detailed drawings including cross sections and profiles of all permanent storm water conveyance and treatment practices.

(e) A description and installation schedule for the storm water management practices needed to meet the performance standards in 86.213.

(f) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.

(g) Cost estimates for the construction, operation, and maintenance of each storm water management practice.

(h) Other information requested in writing by the Director of Public Works, or the designee, to determine compliance of the proposed storm water management measures with the provisions of this ordinance.

(i) All site investigations, plans, designs, computations, and drawings shall be certified by a licensed professional engineer to be prepared in accordance with accepted engineering practices and requirements of this ordinance.

(2) ALTERNATE REQUIREMENTS. The Director of Public Works, or the designee, may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under 86.213 (5).

#### **Section 86.309. Maintenance Agreement.**

(1) MAINTENANCE AGREEMENT REQUIRED. The maintenance agreement required under 86.214 for storm water management practices shall be an agreement between the Village of Weston and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be filed with the Marathon County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the storm water management practices.

(2) AGREEMENT PROVISIONS. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by 86.215 (1)(f):

(a) Identification of the storm water facilities and designation of the drainage area served by the facilities.

(b) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under 86.214 (2).

(c) Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the storm water management practices identified in the storm water management plan required under 86.214 (2).

(d) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain storm water management practices in accordance with the schedule included in par. (b).

(e) Authorization for the Director of Public Works, or the designee, to access the

property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.

(f) A requirement on the Director of Public Works, or the designee, to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.

(g) Agreement that the party designated under par. (c), as responsible for long term maintenance of the storm water management practices, shall be notified by the Director of Public Works, or the designee, of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the Director of Public Works, or the designee.

(h) Authorization of the Director of Public Works, or the designee, to perform the corrected actions identified in the inspection report if the responsible party designated under par. (c) does not make the required corrections in the specified time period. The Director of Public Works, or the designee, shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to subch. VII of ch. 66, Wis. Stats.

#### **Section 86.310. Financial Guarantee.**

(1) ESTABLISHMENT OF THE GUARANTEE. The Director of Public Works, or the designee, may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Director of Public Works, or the designee. The financial guarantee shall be in an amount determined by the Director of Public Works, or the designee, to be the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the Director of Public Works, or the designee, the authorization to use the funds to complete the storm water management practices if the responsible party defaults or does not properly implement the approved storm water management plan, upon written notice to the responsible party by the administering authority that the requirements of this ordinance have not been met.

(2) CONDITIONS FOR RELEASE. Conditions for the release of the financial guarantee are as follows:

(a) The Director of Public Works, or the designee, shall release the portion of the financial guarantee established under this section, less any costs incurred by the Director of Public Works, or the designee, to complete installation of practices, upon submission of "as-built plans" by a licensed professional engineer. The Director of Public Works, or the designee, may make provisions for a partial prorata release of the financial guarantee based on the completion of various development stages.

(b) The Director of Public Works, or the designee, shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the Director of Public Works, or the designee, at such time that the responsibility for practice maintenance is passed on

to another entity via an approved maintenance agreement.

**Section 86.311. Fee Schedule.**

The fees referred to in other sections of this ordinance shall be established by the Director of Public Works, or the designee, and may from time to time be modified by resolution. A schedule of the fees established by the Director of Public Works, or the designee, shall be available for review in Public Works Department/Engineering Department.

**Section 86.312. Enforcement.**

- (1) Any land disturbing construction activity or post–construction runoff initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.
- (2) The Director of Public Works, or the designee, shall notify the responsible party by certified mail of any non–complying land disturbing construction activity or post–construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- (3) Upon receipt of written notification from the Director of Public Works, or the designee, under sub. (2), the responsible party shall correct work that does not comply with the storm water management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the Director of Public Works, or the designee, in the notice.
- (4) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the Director of Public Works, or the designee, may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Director of Public Works, or the designee, plus interest and legal costs shall be billed to the responsible party.
- (5) The Director of Public Works, or the designee, is authorized to post a stop work order on all land disturbing construction activity that is in violation of this ordinance, or to request the Village Attorney, to obtain a cease and desist order in any court with jurisdiction.
- (6) The Director of Public Works, or the designee, may revoke a permit issued under this ordinance for non–compliance with ordinance provisions.
- (7) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Director of Public Works, or the designee, or by a court with jurisdiction.
- (8) The Director of Public Works, or the designee, is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the village attorney for the commencement of further legal proceedings in any court with jurisdiction.
- (9) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to a forfeiture of not less than \$10 dollars or more than \$500 dollars for the 1<sup>st</sup> offense and not less than \$50 dollars or more than \$500 dollars for the 2<sup>nd</sup> offense (Section 1.111), together with the costs of prosecution.

Each day that the violation exists shall constitute a separate offense.

(10) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

(11) When the Director of Public Works, or the designee, determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the storm water management plan, or has failed to comply with schedules set forth in said storm water management plan, the Director of Public Works, or the designee, or a party designated by the Director of Public Works, or the designee, may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The Director of Public Works, or the designee, shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to S.11 of this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

### **Section 86.313. Appeals.**

(1) BOARD OF APPEALS. The board of appeals, created pursuant to ARTICLE XIII. Board of Appeals, Sec. 94.205 Establishment and Purpose of the Village of Weston ordinances pursuant to s. 61.354(4)(b), Wis. Stats, shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Director of Public Works, or the designee, in administering this ordinance. The board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the board may authorize variances from the provisions of this ordinance that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.

(2) WHO MAY APPEAL. Appeals to the board of appeals may be taken by any aggrieved person or by an officer, department, board, or bureau of the Village of Weston affected by any decision of the Director of Public Works, or the designee.

### **Section 86.314. Severability.**

If any section, clause, provision or portion of this ordinance is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall remain in force and not be affected by such judgment.

### **Section 86.315. Effective Date.**

This ordinance shall be in force and effect from and after its adoption and publication. The above and foregoing ordinance was duly adopted by the Village Board of the Village of Weston on the 15 day of May, 2005.

(Ord. of 5-24-2005)

## DIVISION 3: CONSTRUCTION SITE EROSION

### **Section 86.400 Creation.**

The intent of this ordinance is to require use of best management practices to reduce the amount of sediment and other pollutants resulting from land disturbing construction activities on sites that do not include the construction of a building and is otherwise regulated by the Wisconsin Department of Commerce in s. Comm 21.125 or 50.115, Wis. Adm. Code. Use of this ordinance will foster consistent, statewide application of the construction site performance standards for new development and redevelopment contained in subchapters III and IV of ch. NR 151, Wis. Adm. Code.

### **Section 86.401 Authority.**

- (1) This ordinance is adopted under the authority granted by s. 61.354. This ordinance supersedes all provisions of an ordinance previously enacted under s. 61.35, Wis. Stats., that relate to construction site erosion control. Except as otherwise specified in s.61.354 Wis. Stats., s.61.35, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The Village Board hereby designates the Director of Public Works, or the designee, to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:
  - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.
  - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

### **Section 86.402 Purpose and Intent.**

It is the purpose of this ordinance to further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity to waters of the state in the Village of Weston.

### **Section 86.403 Applicability and Jurisdiction.**

(1) **APPLICABILITY.**

(a) This ordinance applies to the following land disturbing construction activities except as provided under sub. (b):

1. A construction site, which has 5 or more acres of land disturbing construction activity.
2. A construction site, which has one or more acres of land disturbing construction activity after March 10, 2003.

(b) This ordinance does not apply to the following:

1. Land disturbing construction activity that includes the construction of a building and is otherwise regulated by the Wisconsin Department of Commerce under s. Comm 21.125 or 50.115, Wis. Adm. Code.
2. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit (NPDES) issued under chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity.
3. Nonpoint discharges from agricultural facilities and practices.
4. Nonpoint discharges from silviculture activities.
5. Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility. (c) Notwithstanding the applicability requirements in paragraph (a), this ordinance applies to construction sites of any size that, in the opinion of the Director of Public Works, or the designee, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(2) **JURISDICTION.**

This ordinance applies to land disturbing construction activities on lands within the boundaries and jurisdiction of the Village of Weston, as well as all lands located within the jurisdiction of Village of Weston, even if plat approval is not involved.

(3) **EXCLUSIONS.**

This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.

**Section 86.404 Definitions.**

(1) “Administering authority” means a governmental employee, or a regional planning Commission empowered under s. 61.354, Wis. Stats., that is designated by the Village

Board to administer this ordinance.

(2) "Agricultural facilities and practices" has the meaning in s. 281.16(1), Wis. Stats.

(3) "Average annual rainfall" means a calendar year of precipitation, excluding snow, which is considered typical.

(4) "Best management practice" or "BMP" means structural or nonstructural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

(5) "Business day" means a day the office of the Director of Public Works, or the designee, is routinely and customarily open for business.

(6) "Cease and desist order" means a court issued order to halt land disturbing construction activity that is being conducted without the required permit.

(7) "Construction site" means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger Common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

(8) "Division of land" means the creation from one parcel of 5 or more parcels or building sites of 1 ½ or fewer acres each in area where such creation occurs at one time or through the successive partition within a 5-year period.

(9) "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

(10) "Erosion and sediment control plan" means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

(11) "Extraterritorial" means the unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

(12) "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

(13) "Governing body" means town board of supervisors, county board of supervisors, city council, village board of trustees or village council.

(14) "Land disturbing construction activity" means any man made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes, but is not limited to, clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

(15) "MEP" or "maximum extent practicable" means a level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance

standard and site conditions.

(16) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

(17) "Permit" means a written authorization made by the Director of Public Works, or the designee, to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

(18) "Pollutant" has the meaning given in s. 283.01 (13), Wis. Stats.

(19) "Pollution" has the meaning given in s. 281.01 (10), Wis. Stats.

(20) "Responsible party" means any entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or other agreement.

(21) "Runoff" means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

(22) "Sediment" means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

(23) "Separate storm sewer" means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

(a) Is designed or used for collecting water or conveying runoff.

(b) Is not part of a combined sewer system.

(c) Is not draining to a storm water treatment device or system.

(d) Discharges directly or indirectly to waters of the state.

(24) "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

(25) "Stop work order" means an order issued by the Director of Public Works, or the designee, which requires that all construction activity on the site be stopped.

(26) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

(27) "Waters of the state" has the meaning given in s. 281.01 (18), Wis. Stats.

### **Section 86.405 Technical Standards.**

(1) DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS. All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications based on any of the following:

(a) Applicable design criteria, standards and specifications identified in the Wisconsin Construction Site Best Management Practice Handbook, WDNR Pub. WR-222 November 1993 Revision.

(b) Other design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.

(c) For this ordinance, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.

(2) OTHER STANDARDS. Other technical standards not identified or developed in sub. (1), may be used provided that the methods have been approved by the Director of Public Works, or the designee.

#### **Section 86.406 Performance Standards.**

(1) RESPONSIBLE PARTY. The responsible party shall implement an erosion and sediment control plan, developed in accordance with 86.231, that incorporates the requirements of this section.

(2) PLAN. A written plan shall be developed in accordance with 86.231 and implemented for each construction site.

(3) EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS. The plan required under sub. (2) Shall include the following:

(a) BMPs that, by design, achieve to the maximum extent practicable, a reduction of 80% of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80% sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.

(b) Notwithstanding par. (a), if BMPs cannot be designed and implemented to reduce the sediment load by 80%, on an average annual basis, the plan shall include a written and site-specific explanation as to why the 80% reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.

(c) Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:

1. Prevent tracking of sediment from the construction site onto roads and other paved surfaces.
2. Prevent the discharge of sediment as part of site de-watering.
3. Protect the separate storm drain inlet structure from receiving sediment.

(d) The use, storage and disposal of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into waters of the state. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.

(4) LOCATION. The BMPs used to comply with this section shall be located prior to runoff entering waters of the state.

(5) ALTERNATE REQUIREMENTS. The Director of Public Works, or the designee, may establish storm water management requirements more stringent than those set forth in this section if the Director of Public Works, or the designee, determines that an added level of protection is needed for sensitive resources.

#### **Section 86.407 Permitting Requirements, Procedures, and Fees.**

(1) PERMIT REQUIRED. No responsible party may commence a land disturbing construction activity subject to this ordinance without receiving prior approval of an ero-

sion and sediment control plan for the site and a permit from the Director of Public Works, or the designee.

(2) **PERMIT APPLICATION AND FEES.** At least one responsible party desiring to undertake a land disturbing construction activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of 86.408 and shall pay an application fee of which is of part of the stormwater review fee to the Village of Weston. By submitting an application, the applicant is authorizing the Director of Public Works, or the designee, to enter the site to obtain information required for the review of the erosion and sediment control plan.

(3) **REVIEW AND APPROVAL OF PERMIT APPLICATION.** The Director of Public Works, or the designee, shall review any permit application that is submitted with erosion and sediment control plan, and the required fee. The following approval procedure shall be used:

(a) Within 30 business days of the receipt of a complete permit application, as required by sub. (2), the Director of Public Works, or the designee, shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this ordinance.

(b) If the permit application and plan are approved, the Director of Public Works, or the designee, shall issue the permit.

(c) If the permit application or plan is disapproved, the Director of Public Works, or the designee, shall state in writing the reasons for disapproval.

(d) The Director of Public Works, or the designee, may request additional information from the applicant. If additional information is submitted, the Director of Public Works, or the designee, shall have 15 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.

(e) Failure by the Director of Public Works, or the designee, to inform the permit applicant of a decision within 15 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(4) **SURETY BOND.** As a condition of approval and issuance of the permit, the Director of Public Works, or the designee, may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

(5) **PERMIT REQUIREMENTS.** All permits shall require the responsible party to:

(a) Notify the Director of Public Works, or the designee, within 48 hours of commencing any land disturbing construction activity.

(b) Notify the Director of Public Works, or the designee, of completion of any BMPs within 14 days after their installation.

(c) Obtain permission in writing from the Director of Public Works, or the designee, prior to any modification pursuant to 86.231 (3) of the erosion and sediment control plan.

(d) Install all BMPs as identified in the approved erosion and sediment control plan.

(e) Maintain all road drainage systems, stormwater drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.

(f) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site erosion control log.

(g) Inspect the BMPs within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week make needed repairs and document the findings of the inspections in a site erosion control log with the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site.

(h) Allow the Director of Public Works, or the designee, to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the control plan. Keep a copy of the erosion and sediment control plan at the construction site.

(6) PERMIT CONDITIONS. Permits issued under this section may include conditions established by Director of Public Works, or the designee, in addition to the requirements set forth in sub. (5), where needed to assure compliance with the performance standards in 86.229.

(7) PERMIT DURATION. Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit (1 year) or other construction authorizations, whichever is longer, from the date of issuance. The Director of Public Works, or the designee, may extend the period one or more times for up to an additional 180 days. The Director of Public Works, or the designee, may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this ordinance.

(8) MAINTENANCE. The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.

### **Section 86.408 Erosion and Sediment Control Plan, Statement, and Amendments.**

#### **(1) EROSION AND SEDIMENT CONTROL PLAN.**

(a) An erosion and sediment control plan shall be prepared and submitted to the Director of Public Works, or the designee,

(b) The erosion and sediment control plan shall be designed to meet the performance standards in 86.229 and other requirements of this ordinance.

(c) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:

1. The name(s) and address (es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.

2. Description of the site and the nature of the construction activity, including representation of the limits of land disturbance on a United States Geological Service (USGS) 7.5-minute series topographic map.

3. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.

4. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.
5. Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.
6. Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.
7. Existing data describing the surface soil as well as subsoils.
8. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.
9. Name of the immediate named receiving water from the United States Geological Service (USGS) 7.5-minute series topographic maps.

(d) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale of not less than 1 inch equals 20 feet and not greater than 1 inch equals 60 feet and at a contour interval not to exceed two feet.

1. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes and floodways shall also be shown.
2. Boundaries of the construction site.
3. Drainage patterns and approximate slopes anticipated after major grading activities.
4. Areas of soil disturbance.
5. Location of major structural and non-structural controls identified in the plan.
6. Location of areas where stabilization practices will be employed.
7. Areas which will be vegetated following construction.
8. Aerial extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland.
9. Locations of all surface waters and wetlands within one mile of the construction site.
10. An alphanumeric or equivalent grid overlying the entire construction site map.

(e) Each erosion and sediment control plan shall include a description of appropriate controls and measures that will be performed at the site to prevent pollutants from reaching waters of the state. The plan shall clearly describe the appropriate control measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:

1. Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
2. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site.

Unless otherwise specifically approved in writing by the Director of Public Works, or the designee, structural measures shall be installed on upland soils.

3. Management of overland flow at all sites, unless otherwise controlled by outfall controls.
4. Trapping of sediment in channelized flow.
5. Staging construction to limit bare areas subject to erosion.
6. Protection of down slope drainage inlets where they occur.
7. Minimization of tracking at all sites.
8. Clean up of off-site sediment deposits.
9. Proper disposal of building and waste materials at all sites.
10. Stabilization of drainage ways.
11. Control of soil erosion from dirt stockpiles.
12. Installation of permanent stabilization practices as soon as possible after final grading.
13. Minimization of dust to the maximum extent practicable.

(f) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

(2) **EROSION AND SEDIMENT CONTROL PLAN STATEMENT.** For each construction site identified under 86.226 (1)(c), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the Director of Public Works, or the designee. The control plan statement shall briefly describe the site, including a site map. Further, it shall also include the best management practices that will be used to meet the requirements of the ordinance, including the site development schedule.

(3) **AMENDMENTS.** The applicant shall amend the plan if any of the following occur:

- (a) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.
- (b) The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.
- (c) The Director of Public Works, or the designee, notifies the applicant of changes needed in the plan.

#### **Section 86.409 Fee Schedule.**

The fees referred to in other sections of this ordinance shall be established by the Village Board, and may from time to time be modified by resolution. A schedule of the fees established by the Director of Public Works, or the designee, shall be available for review in Public Works Department/Engineering Department.

#### **Section 86.410 Inspection.**

If land disturbing construction activities are being carried out without a permit required

by this ordinance, the Director of Public Works, or the designee, may enter the land pursuant to the provisions of ss. 66.0119(1), (2), and (3), Wis. Stats.

#### **Section 86.411 Enforcement.**

(1) The Director of Public Works, or the designee, may post a stop work order if any of the following occurs:

(a) Any land disturbing construction activity regulated under this ordinance is being undertaken without a permit.

(b) The erosion and sediment control plan is not being implemented in a good faith manner.

(c) The conditions of the permit are not being met.

(2) If the responsible party does not cease activity as required in a stop work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions, the Director of Public Works, or the designee, may revoke the permit.

(3) If the responsible party, where no permit has been issued, does not cease the activity after being notified by the Director of Public Works, or the designee, or if a responsible party violates a stop work order posted under sub. (1), the Director of Public Works, or the designee, may request the Village Attorney to obtain a cease and desist order in any court with jurisdiction.

(4) The Director of Public Works, or the designee, may retract the stop work order issued under sub. (1) or the permit revocation under sub. (2).

(5) After posting a stop work order under sub. (1), the Director of Public Works, or the designee, may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The Director of Public Works, or the designee, may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the Director of Public Works, or the designee, plus interest at the rate authorized by Director of Public Works, or the designee shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the

Clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to subch. VII of ch. 66, Wis. Stats.

(6) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to a forfeiture of not less than \$10 dollars or more than \$500 dollars for the 1<sup>st</sup> offense and not less than \$50 dollars or more than \$500 dollars for the 2<sup>nd</sup> offense (Section 1.111), together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.

(7) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

#### **Section 86.412 Appeals.**

(1) BOARD OF APPEALS. The board of appeals created pursuant to ARTICLE XIII. Board of Appeals, Sec. 94.205 Establishment and Purpose of the Village of Weston ordinances pursuant to s. 61.354(4)(b), Wis. Stats, shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Director

of Public Works, or the designee, in administering this ordinance.

(a) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Director of Public Works, or the designee, in administering this ordinance except for cease and desist orders obtained under 86.234 (3).

(b) Upon appeal, may authorize variances from the provisions of this ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and

(c) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

(2) WHO MAY APPEAL. Appeals to the board of appeals may be taken by any aggrieved person or by any office, department, board, or bureau of the Village of Weston affected by any decision of the Director of Public Works, or the designee.

### **Section 86.413 Severability.**

If a court of competent jurisdiction judges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of the ordinance shall remain in force and not be affected by such judgment.

### **Section 86.414 Effective Date.**

This ordinance shall be in force and effect from and after its adoption and publication. The above and foregoing ordinance was duly adopted by the Village Board of the Village of Weston on the 15 day of May, 2005.

(Ord. of 5-24-2005)

## **DIVISION 4. ILLICIT DISCHARGE DETECTION AND ELIMINATION.**

### **Sec. 86.500. Purpose and Intent.**

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of The Village of Weston through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable, as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process. The objectives of this ordinance are:

(a) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.

(b) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system.

(c) To establish legal authority to carry out all inspection, surveillance and

monitoring procedures necessary to ensure compliance with this ordinance.

**Sec. 86.501. Definitions.**

(a) *Administering Authority* means a governmental employee, or a regional planning commission empowered under s. 61.354; Wis. Stats., that is designated by the Village of Weston Board to administer this ordinance.

(b) *Best Management Practice or BMP* means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

(c) *Clean Water Act* means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

(d) *Construction activity* means activity subject to WPDES Construction Permits. Currently these include construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

(e) *Hazardous materials* means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(f) *Illegal Discharge* means any direct or indirect non-storm water discharge to the storm drain system, except as specifically exempted by this ordinance.

(g) *Illicit Connection* means either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an Administering authority or, Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an Administering authority.

(h) *Industrial Activity* means activity subject to WPDES Industrial Permits.

(i) *Non-Stormwater Discharge* means any discharge to the storm drain system that is not composed entirely of storm water.

(j) *Person* means any individual, association, organization, partnership, firm,

corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

(k) *Pollutant* means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

(l) *Premises* means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

(m) *Storm Drainage System* means any publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

(n) *Storm Water* means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

(o) *Stormwater Pollution Prevention Plan or SWPPP* means a document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

(p) *Wastewater* means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

(q) *Wisconsin Pollutant Discharge Elimination System or WPDES* means a permit issued by the Wisconsin Department of Natural Resources (WDNR) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

#### **Sec. 86.502. Applicability.**

This ordinance shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by an administering authority.

#### **Sec. 86.503. Responsibility for Administration.**

The Director of Public Works shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the administering authority may be delegated in writing by the Director of Public Works to persons or entities acting in the beneficial interest of or in the employ of the agency.

**Sec. 86.504. Severability.**

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

**Sec. 86.505. Ultimate Responsibility.**

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

**Sec. 86.506. Discharge Prohibitions.**

(a) *Prohibition of Illegal Discharges.* No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this ordinance: flushing of water lines or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.
- (2) Discharges specified in writing by the administering authority as being necessary to protect public health and safety.
- (3) Dye testing is an allowable discharge, but requires a verbal notification to the administering authority prior to the time of the test.
- (4) The prohibition shall not apply to any non-storm water discharge permitted under a WPDES permit, waiver, or waste discharge order issued

to the discharger and administered under the authority of the WDNR, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(b) *Prohibition of Illicit Connections.*

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

**Sec. 86.507. Suspension of MS4 Access.**

(a) *Suspension due to Illicit Discharges in Emergency Situations.* The Director of Public Works may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the administering authority may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the State, or to minimize danger to persons.

(b) *Suspension due to the Detection of Illicit Discharge.* Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The administering authority will notify a violator of the proposed termination of its MS4 access. The violator may petition the administering authority for reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the administering authority.

**Sec. 86.508. Industrial or Construction Activity Discharges.**

Any person subject to an industrial or construction activity WPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Director of Public Works prior to the allowing of discharges to the MS4.

**Sec. 86.509. Monitoring of Discharges.**

(a) *Applicability.* This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

(b) *Access to Facilities.*

- (1) The Director of Public Works shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the administering authority.
- (2) Facility operators shall allow the Director of Public Works ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a WPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
- (3) The Director of Public Works shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the administering authority to conduct monitoring and/or sampling of the facility's storm water discharge.
- (4) The Director of Public Works has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Director of Public Works and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the Director of Public Works access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a WPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the administering authority reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

- (7) If the Director of Public Works has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the administering authority may seek issuance of a search warrant from any court of competent jurisdiction.

**Sec. 86.510. Requirement to Prevent, Control and Reduce Stormwater Pollutants by the use of Best Management Practices.**

The Director of Public Works will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or Waters of the State. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid WPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the WPDES permit.

**Sec. 86.511. Watercourse Protection.**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

**Sec. 86.512. Notification of Spills.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or Waters of the State, said person shall take all necessary steps to ensure the

discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the administering authority in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director of Public Works within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

### **Sec. 86.513. Enforcement.**

#### *(a) Notice of Violation.*

- (1) Whenever the Director of Public Works finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the administering authority may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
  - a. The performance of monitoring, analyses, and reporting;
  - b. The elimination of illicit connections or discharges;
  - c. That violating discharges, practices, or operations shall cease and desist;
  - d. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
  - e. Payment of a fine to cover administrative and remediation costs; and
  - f. The implementation of source control or treatment BMPs.
- (2) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

### **Sec. 86.514. Appeal of Notice of Violation.**

Any person receiving a Notice of Violation may appeal the determination of the administering authority. The notice of appeal must be received within 30 days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

**Sec. 86.515. Enforcement Measures after Appeal.**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 10 days of the decision of the municipal authority upholding the decision of the administering authority, then representatives of the administering authority shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the governmental agency or designated contractor to enter upon the premises for the purposes set forth above.

**Sec. 86.516. Cost of Abatement of the Violation.**

Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 10 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the village by reason of such violation. Interest at the rate of six (6) percent per annum shall be assessed on the balance beginning on the 31st day following discovery of the violation.

**Sec. 86.517. Injunctive Relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the administering authority may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**Sec. 86.518. Compensatory Action.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the administering authority may impose upon a violator alternative compensatory action(s), such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

**Sec. 86.519. Violations Deemed a Public Nuisance.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and

may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**Sec. 86.520. Prosecution.**

Any person that has violated or continues to violate this ordinance shall be subject to a forfeiture of not less than \$100 nor more than \$5,000 per violation; each day such violation exists shall be deemed a separate violation. The administering authority may recover all attorneys' fees, court costs, and other expenses associated with enforcement of these requirements, including sampling and monitoring expenses.

**Sec. 86.521. Remedies Not Exclusive.**

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the administering authority to seek cumulative remedies.

**Sec. 86.522. Effective Date.**

This ordinance shall be in full force and effect from and after its adoption and publication as provided by law. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

(Ord. of 4-24-09)

**ARTICLE VI REFUSE & RECYCLING UTILITY**

**Sec. 86.600. Declaration of Purpose.**

There is hereby created a Refuse & Recycling utility for the purpose of providing funds for the management of refuse, recycling, and yard waste collection, processing, and storage under the jurisdiction of the Village of Weston. The Board of Trustees hereby finds, determines and declares the necessity of providing refuse & trash collection services, collection of recyclables, and collection and disposition of bio-mass and yard waste from both public and privately owned properties, and the need to educate the community about responsible and sustainable methods of waste disposal.

(Ord. of 10-23-12)

**Sec. 86.601. Definitions within Ordinance.**

(a) *Responsible Party.* Responsible party shall mean the person or persons who by usage, occupancy or contractual arrangement are responsible to pay the utility account for an improved premise.

(b) *Utility Account.* Utility account shall mean any account created by the Village of Weston to collect sanitary sewer, water, or stormwater charges from owners or occupants of an improved premise.

(c) *Improved Premises.* Improved Premises shall mean structures, landscaping paved areas, and any area which has been altered such that run-off from the site is greater than that which would have historically been expected.

(Ord. of 10-23-12)

**Sec. 86.602. Authority of Refuse Utility.**

The Village, acting through the Refuse Utility, may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, repair, conduct, manage and finance such facilities, operations and activities, as are deemed by the Village to be proper and reasonably necessary for the management of refuse, recycling, and yard waste.

(Ord. of 10-23-12)

**Sec. 86.603. Establishment of Refuse Utility Fee.**

(a) The Village Board hereby establishes a utility fee to be paid by the responsible party (whether owners or occupants). Such fee shall be established in such amounts which shall provide sufficient funds to properly operate, administer, and maintain refuse and recycling collection and disposal services in the Village. Residential occupants shall be charged a set fee assigned to each utility account within the Village.

(b) The charges, rates, and fees of the Utility will be listed in the Village of Weston Municipal Fee Schedule.

(c) The Village Board may from time to time, by resolution, change the fees based upon revised estimates of the cost to operate, administer and maintain the local refuse services in the Village.

(d) The Village Board may change the rate structure, charges, and fees of the utility during the annual budget approval process.

(e) The Refuse utility fee imposed by the Village is not a tax against real property. The obligation to pay the fee is a personal obligation of the responsible party.

(Ord. of 10-23-12)

**Sec. 86.604. Dedication of Refuse Utility Fee.**

All fees collected pursuant to this ordinance shall be paid into the Refuse Utility fund. Such revenue shall be used for the purposes of the operation, administration, and

maintenance of the local refuse services in the Village. It shall not be necessary that the operation, administration, and maintenance expenditures from the Refuse Utility fund specifically relate to any particular property from which the fees for said purposes were collected. To the extent that the fees collected are insufficient to properly finance the provision of refuse and recycling collection and management services, the cost shall be paid from such other Village funds as may be determined by the Board of Trustees, but the Board of Trustees may order the reimbursement back from other funds to this utility fund if additional fees are thereafter collected.

(Ord. of 10-23-12)

**Sec. 86.605. Collection of Refuse Utility Fee.**

(a) The responsible party for any improved residential premises within the Village of Weston shall pay a utility fee according to the rate set forth in the Fee Schedule by Municipal Ordinance. Unless another responsible party has agreed, in writing, to pay and a copy of the writing is filed with the Village, the name of record on the utility account shall pay the utility fee. When the bill remains unpaid by the name of record on the utility account then the property owner becomes responsible for the utility fee. The obligation to pay the utility fee is personal to the responsible party.

(b) Refuse utility charges shall be billed to the owner of each improved parcel using refuse collection and disposal services. The parcel owner shall be responsible for payment of the refuse utility charge. Utility fees shall be billed as follows:

- (1) Utility fees shall be collected via a special charge assessed annually, and placed on the annual property tax collection bill, or
- (2) Quarterly by the Village and shall become due and payable in accordance with the rules and regulations pertaining to the collection of utility bills. Quarterly utility fees for new development shall commence when charges for sanitary sewer, water and/or stormwater commence. Areas annexed to the Village of Weston or under contract to annex shall become subject to the utility fee, if there is a building on the property being annexed, on the date of annexation or the date of the annexation contract, whichever comes first.

(c) Fee Implementation shall be adopted by the Village Board through the budget process.

(d) Late Payment. Failure to pay the charges when due will be subject to a late payment charge of three (3) percent that will be added to bills not paid within 30 days of issuance, and an additional 3% for every 30 days late thereafter.

(e) Unpaid Charges. In addition to any other method of collection allowed by law, unpaid charges may be assessed as a lien against the property pursuant to sec. 66.0821, Wis. Stats.

(Ord. of 10-23-12)

**Sec. 86.606. Enforcement of Utility Fee Collection.**

Any charge due hereunder which is not paid when due may be recovered from the responsible party in an action at law by the Village. The Administrator is hereby empowered and directed to enforce this provision against such delinquent users. The employees of the Village shall, at all reasonable times, have access to any premises served by the Village for inspection and enforcement of the provisions of this ordinance.

(Ord. of 10-23-12)

**Sec. 86.607. Administrative Review and Appeals.**

(a) The Administrator may, upon appropriate findings, recalculate the utility fee based on circumstance and written appeal from a utility customer.

(b) Any user or occupant who disputes the amount of the fee, or disputes any determination made by, or, on behalf of the Village, by the Administrator, pursuant to and by the authority of this chapter may petition the Village Board for a hearing on a revision or modification of such fee or determination. Such petitions may be filed only once in connection with any fee or determination, except upon a showing of changed circumstances sufficient to justify the filing of such additional petition.

(c) Such petition shall be in writing, filed with the Clerk, and the facts and figures shall be submitted in writing or orally at a hearing scheduled by the Board of Trustees. The Petitioner shall have the burden of proof.

(d) Within sixty (60) days of filing of the Petition, the Board of Trustees shall make findings of fact based on all relevant information, shall make a determination based upon such findings and, if appropriate, modify such fee or determination accordingly. Such determination by the Village Board shall be considered a final order.

(Ord. of 10-23-12)

**Sec. 86.608. Notice of Decision For Review & Appeals of Utility Fees.**

Every decision or determination of the Administrator, on behalf of the Village, or Board of Trustees shall be in writing; notice thereof shall be mailed to or served upon the Petitioner within a reasonable time from the date of such action. Service by certified mail, return receipt requested, shall be conclusive evidence of service for the purpose of this chapter.

(Ord. of 10-23-12)

**Sec. 86.609. Disposition of Fees and Charges.**

The fees paid and collected by virtue of this ordinance shall not be used for general or other governmental proprietary purposes of the Village, except to pay for an equitable share of the Village's accounting, management and other governing costs, incident to operation of the utility fee program. Otherwise the fees and charges shall be used to pay for the cost of operation, administration, maintenance, repair, improvement, renewal; replacement and reconstruction of the Village facilities related to refuse service management.

(Ord. of 10-23-12)

**Sec. 86.610. Exemptions From Utility Fees and Charges.**

The Board of Trustees may, by resolution, exempt any class of user when they determine that the public interest deems it necessary or that the contribution to provision of services provided by the utility by said class is deemed to be insignificant.

(Ord. of 10-23-12)

**Sec. 86.611. Severability.**

If any provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is found invalid or unconstitutional by a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the provisions or application of this Ordinance which can be given effect without the invalid or unconstitutional provision or application.

(Ord. of 10-23-12)

**Sec. 86.612. Obstruction.**

(a) It shall be unlawful for any person to willfully obstruct, hinder or delay the enforcement of any order, rule, regulation or plan issued pursuant to this chapter, or to do any act forbidden by any order, rule regulation or plan issued pursuant to the authority contained in this section.

(b) Any person violating a provision of this chapter shall, upon conviction thereof, be subject to forfeiture as designated in Section 1.111 (General Penalty) of the Village of Weston Municipal Code of Ordinances.

(Ord. of 10-23-12)